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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,531	08/28/2003	Tobias Horngren	14069.2US01	9032
23552	7590	09/27/2005		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	
DATE MAILED: 09/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/650,531

Applicant(s)

HORNGREN ET AL.

Examiner

Christopher Boswell

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claims 2, 4, 13, 14, and 26 are objected to because of the following informalities: The aforementioned claims contain the phrase “devised”, it is unclear as to what this is meant by this phrase. Devised is commonly defined as a mental development, not a physical or mechanical adaptation. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,374,648 to Mitsuyama.

Mitsuyama discloses a security device for retaining items having a first security member (7) and a second security member (5), wherein the first and second security members are engaged at a closed position for retaining an item, a lock slide (B) displaceable to a locked position for maintaining the security device in the closed position, and latch (21) for maintaining the lock slide in the locked position, wherein the latch is integrally formed as a portion of the lock slide (figures 5 and 6), as in claim 1.

Mitsuyama also discloses the lock slide is displaceably mounted to the first security member (column 5, lines 42-48), and wherein the latch is adapted to engage with a stop member (6 and 24), arranged on the second security member (figures 6), in the locked position, as in claim 2, wherein the latch has a spring blade (25; column 6, lines 49-52) extending from a principal plane of the lock slide (figure 6), as in claim 3, where the spring blade is adapted to engage with the stop member (figure 6) arranged on the second security member, in the locked position, as in claim 4, wherein the stop member is a shoulder portion of a recessed portion on the second security member (figures 7 and 8), as in claims 5 and 6, as well as the security device having a plurality of spring blades and a plurality of corresponding stop members, spaced apart along the lock slide (figure 6), as in claim 7.

Mitsuyama further discloses the lock slide being displaceably mounted to the first security member (column 5, lines 42-48) and has a protruding tooth (25), the tooth engages with a projecting tab (6) on the second security member in the locked position, as in claim 9, wherein the tooth is bent out portion of the lock slide, protruding from a principal plane of the lock slide (figure 6), as in claim 11, and a plurality of teeth and tabs are provided (figure 6), spaced apart along the lock slide, as in claim 12, as well as the first security member has a first projecting tab (8), and the second security member has a second projecting tab (6), wherein the second projecting tab passes adjacent to the first tab when assuming the closed position, wherein the lock slide has a protruding tooth (25) assuming a position between and at least partly overlapping the first and second tabs in the locked position (figures 6-8), as in claim 10.

Mitsuyama additionally discloses the security members are adapted to completely enclose a retained item in the closed position (column 5, lines 35-38), as in claims 13 and 14, where the

Art Unit: 3676

security members are joined and locked to each other at respective first ends (figure 1), and are hinged together (3) at respective second ends opposite the first ends, as in claim 15, as well as the security members are joined and locked to each other at respective first ends (figure 1), and adapted to be hooked together (hooked together by hinge 3) at respective second ends opposite the first ends, as in claim 16, and where the security members are joined and locked to each other at respective first ends, and at respective second ends opposite the first ends (figure 1 and hinge 3), as in claim 17.

Mitsuyama also discloses the first security member is a base member and the second security member is a lid member, wherein the base and lid members form a box-like structure in the closed position (figure 1), as in claim 18, wherein the base member has a front wall carrying the lock slide on an inner side thereof (9 of element 7), and the lid member has a front wall positioned on an inner side of the lock slide in the locked position (9 of element 5), as in claim 19, as well as the lid member having a flange (the overhang of element 9) projecting from the front wall thereof, wherein the flange in the closed position engages with the front wall of the base member and encloses the lock slide in the box-like structure (figure 1), as in claim 20, and where the lock slide further comprises a maneuver means (74) projecting through an aperture (73) in a side portion of the first security member, as in claim 21, and further comprising an alarm tag (41), as in claim 22.

Mitsuyama further discloses a security device for holding items, having a first security member (7) and a second security member (5) including a stop member (6 and 24), wherein the first and second security members are engaged at a closed position for retaining an item (column

Art Unit: 3676

5, lines 35-38), a lock slide (B) displaceable to a locked position for maintaining the security device in the closed position, and a latch (21) for maintaining the lock slide in the locked position, wherein the latch is carried on the first security member (the latch is carried by both the first and second security members), and is configured to engage with the stop member in the locked position (figures 6-8), as in claim 23.

Mitsuyama additionally discloses the latch means comprising a spring blade (25; column 6, lines 49-52) extending from a principal plane of the lock slide, as in claim 24, and where the spring blade is adapted to engage with the stop member (figures 6-8) in the locked position, as in claim 26, as well as the latch means having a plurality of spring blades and a plurality of corresponding stop members, spaced apart along the lock slide (figure 6), as in claim 27, and the stop member is a shoulder portion of a recessed portion on the second security member, as in claims 28 and 29, and where the latch is integral with the lock slide (figures 5 and 6), as in claim 25, as well as the security device having an alarm tag (41), as in claim 31.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mitsuyama, as applied above, in view of U.S. Patent Application Publication Number 2002/0003095 to Jaeb et al.

Mitsuyama discloses the invention substantially as claimed. However, Mitsuyama does not disclose the lock slide being made from a resilient magnetic material. Jaeb et al. teach of a lockable security container (10) having a locking slide element (18) that comprises a resilient magnetic material (72) in the same field of endeavor for the purpose of having security boxes that are easy to unload so that a retail clerk does not have to spend excessive time unlocking and unloading the security storage container (paragraph 0006, lines 10-14). It would have been obvious to one with ordinary skill in the art at the time the invention was made to manufacture the lock slide of Mitsuyama from a magnetic material, as taught by Jaeb et al. in order to have a security box that is easy to unload so that a user does not have to spend excessive time unlocking the security box.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to lockable storage devices:

U.S. Patent Number 5,786,922 to Lax, U.S. Patent Number 5,375,712 to Weisburn.

Art Unit: 3676

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB *CB*  
September 21, 2005

  
BRIAN E. GLESSNER  
PRIMARY EXAMINER